



General Assembly

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Amendment

LCO No. 3794

HB0512203794HD0

Offered by:
REP. WIDLITZ, 98th Dist.

To: Subst. House Bill No. 5122

File No. 96

Cal. No. 67

"AN ACT ESTABLISHING A PAINT STEWARDSHIP PROGRAM."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) For purposes of this section
4 and section 2 of this act:

5 (1) "Architectural paint" means interior and exterior architectural
6 coatings sold in containers of five gallons or less. Architectural paint
7 does not include industrial, original equipment or specialty coatings.

8 (2) "Distributor" means a company that has a contractual
9 relationship with one or more producers to market and sell
10 architectural paint to retailers in this state.

11 (3) "Environmentally sound management practices" means
12 procedures for the collection, storage, transportation, reuse, recycling
13 and disposal of architectural paint, to be implemented by the
14 representative organization or such representative organization's

15 contracted partners to ensure compliance with all applicable federal,
16 state and local laws, regulations and ordinances and the protection of
17 human health and the environment. Environmentally sound
18 management practices include, but are not limited to, record keeping,
19 the tracking and documenting of the fate of post consumer paint in
20 and outside of this state, and environmental liability coverage for
21 professional services and for the operations of the contractors working
22 on behalf of the representative organization.

23 (4) "Energy recovery" means the process by which all or a portion of
24 solid waste materials are processed or combusted in order to utilize the
25 heat content or other forms of energy derived from such solid waste
26 materials.

27 (5) "Paint stewardship assessment" means the amount added to the
28 purchase price of architectural paint sold in this state that is necessary
29 to cover the cost of collecting, transporting and processing
30 postconsumer paint by the representative organization pursuant to the
31 paint stewardship program.

32 (6) "Postconsumer paint" means architectural paint that is not used
33 and that is no longer wanted by a purchaser of architectural paint.

34 (7) "Producer" means a manufacturer of architectural paint who
35 sells, offers for sale, distributes or contracts to distribute architectural
36 paint in this state.

37 (8) "Recycling" means any process by which discarded products,
38 components and by-products are transformed into new, usable or
39 marketable materials in a manner in which the original products may
40 lose their identity. Recycling does not include energy recovery.

41 (9) "Retailer" means any person that offers architectural paint for
42 sale at retail in this state.

43 (10) "Reuse" means the return of a product into the economic stream
44 for use in the same kind of application as the product was originally

45 intended to be used, without a change in the product's identity.

46 (11) "Commissioner" means the Commissioner of Environmental
47 Protection.

48 (12) "Sell" or "sale" means any transfer of title for consideration
49 including, but not limited to, remote sales conducted through sales
50 outlets, catalogues, or the Internet or any other similar electronic
51 means.

52 (13) "Representative organization" means the nonprofit organization
53 created by producers to implement the paint stewardship program
54 described in section 2 of this act.

55 (14) "Department" means the Department of Environmental
56 Protection.

57 Sec. 2. (NEW) (*Effective from passage*) (a) (1) On or before March 1,
58 2013, each producer of architectural paint sold at retail in this state
59 shall join the representative organization and such representative
60 organization shall submit a plan for the establishment of a paint
61 stewardship program described in this subdivision to the
62 commissioner for approval. Such paint stewardship program shall: (1)
63 Minimize public sector involvement in the management of
64 postconsumer paint by: (A) Reducing the generation of postconsumer
65 paint, (B) promoting the reuse and recycling of postconsumer paint,
66 and (C) negotiating and executing agreements to collect, transport,
67 reuse, recycle, burn for energy recovery and dispose of postconsumer
68 paint using environmentally sound management practices; (2) provide
69 for convenient and available state-wide collection of postconsumer
70 paint that, at a minimum, provides for collection rates and convenience
71 equal to, or greater than, the collection programs available to
72 consumers prior to such paint stewardship program; (3) propose a
73 paint stewardship assessment; and (4) include a funding mechanism
74 that requires each producer that participates in the representative
75 organization to remit to the representative organization payment of
76 the paint stewardship assessment for each container of architectural

77 paint such producer sells in this state.

78 (2) The plan submitted pursuant to subdivision (1) of this subsection
79 shall: (A) Identify each producer participating in the paint stewardship
80 program and the brands of architectural paint sold in this state covered
81 by the program; and (B) address the coordination of the paint
82 stewardship program with existing household hazardous waste
83 collection infrastructure, as much as is reasonably feasible and
84 mutually agreeable.

85 (3) The commissioner may approve the plan for the establishment of
86 a paint stewardship program that meets the requirements of
87 subdivisions (1) and (2) of this subsection. Not later than two months
88 after submission of the plan pursuant to this subsection, the
89 commissioner shall make a determination whether or not to approve
90 the plan.

91 (4) Not later than two months after the date the plan is approved
92 pursuant to subdivision (3) of this subsection, the representative
93 organization shall implement the paint stewardship program.

94 (b) (1) On or before March 1, 2013, and every two years thereafter,
95 the representative organization shall propose a uniform paint
96 stewardship assessment for all architectural paint sold in this state.
97 Such proposed paint stewardship assessment shall be reviewed by an
98 independent auditor to assure that such assessment does not exceed
99 the costs of the paint stewardship program described in subsection (a)
100 of this section and such independent auditor shall recommend an
101 amount for such paint stewardship assessment to the department. The
102 department shall be responsible for the approval of such paint
103 stewardship assessment. Such independent auditor shall be selected by
104 the department and the department shall be responsible for the review
105 of the work product of such independent auditor, including, but not
106 limited to, the review of such auditor's assessment of the bid and
107 purchase procedures utilized by the representative organization to
108 implement such program. The department may terminate the services

109 of any such independent auditor. Not less than once every five years,
110 the department shall select a different independent auditor to perform
111 the duties described in this subdivision and subdivision (4) of
112 subsection (h) of this section. The cost of any work performed by such
113 independent auditor pursuant to the provisions of this subdivision and
114 subdivision (4) of subsection (h) of this section shall be funded by the
115 paint stewardship assessment.

116 (2) On and after the date of implementation of the paint stewardship
117 program pursuant to subdivision (4) of subsection (a) of this section,
118 the paint stewardship assessment, as established pursuant to
119 subdivision (1) of this subsection, shall be added to the cost of all
120 architectural paint sold to retailers and distributors in this state by each
121 producer. On and after such implementation date, each retailer or
122 distributor, as applicable, shall add the amount of such paint
123 stewardship assessment to the purchase price of all architectural paint
124 sold in this state.

125 (c) Any retailer may participate, on a voluntary basis, as a paint
126 collection point pursuant to such paint stewardship program and in
127 accordance with any applicable provision of law or regulation.

128 (d) Each producer and the representative organization shall be
129 immune from liability for any claim of a violation of antitrust law or
130 unfair trade practice if such conduct is a violation of antitrust law, to
131 the extent such producer or representative organization is exercising
132 authority pursuant to the provisions of this section.

133 (e) Not later than the implementation date of the paint stewardship
134 program, the department shall list the names of participating
135 producers and the brands of architectural paint covered by such paint
136 stewardship program on its web site.

137 (f) (1) On and after the implementation date of the paint
138 stewardship program, no producer, distributor or retailer shall sell or
139 offer for sale architectural paint to any person in this state if the
140 producer of such architectural paint is not a member of the

141 representative organization.

142 (2) No retailer or distributor shall be found to be in violation of the
143 provisions of subdivision (1) of this subsection if, on the date the
144 architectural paint was ordered from the producer or its agent, the
145 producer or the subject brand of architectural paint was listed on the
146 department's web site in accordance with the provisions of subsection
147 (e) of this section.

148 (3) The commissioner may seek civil enforcement of the provisions
149 of this subsection pursuant to chapter 439 of the general statutes.

150 (g) Producers or the representative organization shall provide
151 consumers with educational materials regarding the paint stewardship
152 assessment and paint stewardship program. Such materials shall
153 include, but not be limited to, information regarding available end-of-
154 life management options for architectural paint offered through the
155 paint stewardship program and information that notifies consumers
156 that a charge for the operation of such paint stewardship program is
157 included in the purchase price of all architectural paint sold in this
158 state.

159 (h) On or before August 15, 2014, and annually thereafter, the
160 representative organization shall submit a report to the Commissioner
161 of Environmental Protection that details the paint stewardship
162 program. Such report shall include, but not be limited to: (1) A
163 description of the methods used to collect, transport and process
164 postconsumer paint in this state; (2) the volume of postconsumer paint
165 collected in this state; (3) the volume and type of postconsumer paint
166 collected in this state by method of disposition, including reuse,
167 recycling and other methods of processing; (4) the total cost of
168 implementing the program, as determined by an independent financial
169 audit, as performed by the independent auditor described in
170 subdivision (1) of subsection (b) of this section and funded by the paint
171 stewardship assessment; (5) an evaluation of the operation of the
172 program's funding mechanism; and (6) samples of educational

173 materials provided to consumers of architectural paint and an
174 evaluation of the methods used to disseminate such materials.

175 (i) Not later than January 15, 2015, and biennially thereafter, the
176 Commissioner of Environmental Protection shall submit, in accordance
177 with section 11-4a of the general statutes, a report to the joint standing
178 committee of the General Assembly having cognizance of matters
179 relating to the environment that describes the results of the paint
180 stewardship program and recommends modifications to improve the
181 functioning and efficiency of such program, as necessary."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section